

an orifice in said tip, said tip having a tapered applicator surface and said tip retaining said tapered shape as said lip product is applied to the user's lips, said reservoir having a collar around at least a portion thereof, said collar being comprised of a material permitting a user to view the product in said reservoir.

35. (New) The improved lip product applicator according to claim 35 wherein said collar is made from a clear material.

REMARKS

Applicant has amended the specification to overcome the Examiner's objections to the application. In addition, applicant has submitted revised drawings and a substitute abstract. Applicant has amended the claims to more accurately define the present invention. More specifically, applicant has amended claim 1 to provide that the tip has a tapered applicator surface. In addition claim 1 has been amended to make it clear that the reservoir has a top wall and a disk in the reservoir. The disk has a generally flat product contact surface. The applicator surface, the top wall of the reservoir and the disk are generally sloped in the same direction. This is shown in Figure 2. The Gueret patent relied on by the Examiner does not teach or suggest this feature of applicant's invention. Gueret shows a tapered applicator surface in Figure 2. The top surface of the reservoir has a wide orifice with a shoulder. Only a portion of the shoulder has a slope that is generally the same as the applicator surface of Gueret.

The surface of the Gueret device that forces the product through the orifice has a first flat

surface and a raised top surface. These surfaces are not generally sloped in the same direction as the applicator surface and the top surface of the reservoir, Figures 4, 5, 6, 7 and 8. Also, do not show applicant's invention where the applicator surface, the top wall of the reservoir and the disk in the reservoir are generally sloped in the same direction. Applicant has found that less of the product remains in the reservoir when the disk reaches the limits of travel in the design present invention.

The Lang patent relied on by the Examiner does not overcome the defects of the Gueret patent in view of the amendments to the claims. The claim features discussed above are not taught or suggested by Lang.

Claims 32 and 33 are also patentable over Gueret. These claims are directed to a lip product applicator that has a collar around a portion of the reservoir. The collar is comprised of a material that permits the user to view the amount of product in the reservoir. Claims 34 and 35 are also patentable over the art because Gueret does not teach or suggest a collar around at least a portion of the reservoir that permits a user to view the product in said reservoir.

Claim 31 is also patentable over Gueret. Claim 31 is directed to a tip having a first and second horizontal canal extending from a perimeter canal with a vertical canal. Gueret does not teach or suggest this arrangement.

CONCLUSION

For the foregoing reasons the present application should be in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. A. O'Rourke', written over a horizontal line.

Thomas A. O'Rourke

Reg. No.: 27,665

BODNER & O'ROURKE, L.L.P.

425 Broadhollow Road

Melville, New York 11747

(631) 423-2700

CLEAN COPY OF THE AMENDED PARAGRAPHS OF THE SPECIFICATION

Clean copy of Paragraph at page 4, lines 15-17:

It is also an object of the invention to provide a lip applicator that permits the consumer to see the quantity of lip product present in the applicator at the time of purchase and during use.

Clean copy of Paragraph at page 7, line1 :

The reservoir has a tip that is preferably tapered and is provided with a tear drop shaped face. The face is also preferably slightly concave along both the vertical and horizontal axes to permit lip product to be retained on the face when it is discharged from the reservoir. The face is preferably provided with a plurality of canals or channels for receiving lip product. In a preferred embodiment the channels or canals are arranged such that there is perimeter canal that traces the edge of the face, a first vertical canal that extends downwardly from the orifice. The first vertical canal may be crossed by first and second horizontal canals. The perimeter canal keeps applicator clean and prevents lip product from spilling down the sides.

Clean copy of Paragraph at page 7, line 17 please amend the sentence to read:

Figure 1 is a side view of a representative lip stick applicator of the present invention with a perfume dispenser present.

At page 8, line 3, the paragraph should read:

FIG. 6B is a side view of the wall of the reservoir with a driving member in the reservoir.

Clean copy of Paragraph at page 9, line 4:

As seen in FIG. 1 there is a lip applicator 10 that has a body 11, and a cap 12 for protecting the lip product contained in the applicator when the lip applicator is not in use. The cap 12 may be provided with one or more windows 13 to permit the purchaser to view the color of the contents contained therein. This feature helps eliminate the guess work that a consumer must perform to ascertain the color of the lip product in lip applicators that do not have the traditional clear cap. The window may have a first edge 17, a second edge 18 and a base edge 19. If desired, the window may be on one side of the cap, on two opposite sides of the cap or more as desired. For those instances where the window may be on both sides of the cap, the two window sections may be individual windows or the windows may be joined by a top window portion 20 that extends across a portion of the cap. The window may be made of any suitable material such as a clear plastic or other material that permits viewing of the product contained therein. Although the window is shown as generally rectangular it will be appreciated that the window may be round or given any shape desired.

Clean copy of Paragraph at page 10 line 3:

In one embodiment of the invention, the base 14 of the body may be provided with an opening 15 to receive a top portion of a fragrance container 21 as described more fully in our U.S. patent application Ser. No. 09/842372 filed Apr. 25, 2001, the disclosure of which is incorporated herein by reference. The fragrance container is secured into the base by a cap member 16 that receives the top of the fragrance container and seals the container. In addition, the cap member 16 may be secured to the interior surface of the body 11 by an adhesive, or other means such as threading, a friction fit, etc. The cap member 16 may be threaded on its interior

surface 23 to receive the threaded top of the perfume container. A snap fit and other types of means to secure the container to the cap member may also be used as desired. Although the presence of a perfume container has been described herein, it will be appreciated that other cosmetic or other containers can be substituted for the perfume container shown herein. For example, there may be a bottle of nail polish, face cream, lip gloss, eye shadow, eye liner, powder, cream and others.

Clean copy of Paragraph at page 11, lines 11-12:

Within the body 11 is positioned a product reservoir 30 which is preferably a generally hollow member having a side wall 31 and a tip 32. The reservoir can be a round tubular member or have another shape for the cross section. The tip may be integral with the sidewall or may be a separate member. Where the tip is integral, the reservoir is usually open at the end 33 opposite the tip. This open end can be used to fill the reservoir with a lip product. The lip product is not the typical solid lip product that is usually found in most sticks of lip product but is preferably of a pasty or semi-soft consistency so that it will flow from the applicator upon an application of pressure. At the open end of the reservoir 33 there is positioned a drive means 34 for driving product from the applicator to be applied to the user's lips.

Clean copy of Paragraph at page 13, lines 14-15:

Around the reservoir 30 and generally in the vicinity of the open end 33 may be a turning collar or A-shell 35. Turning collar 35 is between the body 11 and the reservoir 30. In this preferred embodiment, the collar 35 is adhered to a portion of the circumference of the reservoir 30. The

collar acts as a finger hold to provide an area where the user of the lip product can place their fingers to prevent the reservoir from turning as the body is being turned to drive the driving member 28 to dispense or retract product. The collar is connected to the reservoir by a suitable means. The collar 35 preferably has one end slightly within the end of the body primarily for aesthetic reasons. The finger hold may preferably be either entirely made of a clear material or the hand hold may be provided with a slit or window 37 permitting the purchaser to view the product's color with the cap removed and to also determine the amount of product remaining in the reservoir. When a slit is present it may extend from the edge of the turning collar 35 and have a pair of side edges 73 and 74 as well as a base portion 75. In another embodiment the slit does not extend to the edge of the collar 72. When a window is present the window preferably does not extend to the edge of the collar and has a top edge 76, side edges 73 and 74 and base portion 75. The window may be a strip of clear material such as PETG or other clear material. As discussed above, the window and or slit is depicted generally rectangularly but any number of shapes are satisfactory as long as the amount of product or the color can be viewed through the window or slit.

Clean copy of Paragraph at page 13, lines 22:

As noted above, the reservoir 30 has a tip 32. This tip is preferably tapered in the manner shown in FIGS. 3 and 4. The tip is provided with a tear drop shape. More specifically, the tip 32 has a face 50 that in addition to the teardrop shape is also preferably slightly concave along both the vertical and horizontal axes to permit lip product to be retained on the face when it is discharged from the reservoir 30 through tube 51 and out of orifice 52. The orifice 52 may be

larger in diameter than the tube 51 or the orifice may be angled and then the orifice will appear to be larger due to the angle of the face 50. The face 50 is preferably provided with a plurality of canals or channels 53 for receiving lip product. In a preferred embodiment the canals are arranged such that there is a perimeter canal 54 that traces the edge of the face, a first vertical canal 55 that extends from the orifice 52. The first vertical canal 55 may be bisected by first and second horizontal canals 56 and 57. An alternative embodiment of the face is shown in FIG. 11D. Although it has been found that the arrangement of the canals permits the user to apply lip product in a manner similar to the traditional lip stick there are other arrangements that may be used. One of the advantages of the present invention is that the applicator tip maintains its shape and provides an angle for applying the lip product that is similar to the angle of the traditional lip stick without wearing away from use or having its shape distorted. In a preferred embodiment, the tip of the lip applicator is clear or translucent so that the color of the product shows through it. In another embodiment, the tip may be colored to mask the color of the lip material.